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Industrial Telecommunications Association, Inc.

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February 19, 1998

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FEDERAL COMMUNICATIONS COMMISSION
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D'Wana Terry, Esq.
Acting Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8010
Washington, D.C. 20554

Re: PR Docket No. 92-235
Ex Parte Communication

Dear Ms. Terry:

ITA has reviewed the *ex parte* communication filed by Hewlett Packard and Space Labs ("HP/Space Labs") in the above referenced proceeding on January 12, 1998. ITA interprets this letter as a restatement of Hewlett Packard's reply comments filed in the *Second Report and Order* of the refarming proceeding, as well as Hewlett Packard's numerous *ex parte* communications on the same matter. To wit, HP/Space Labs contend that the recognition of the Low Power Pool Consensus Plan filed by the Land Mobile Communications Council ("LMCC") will "force many hospitals nationwide to shut down systems that monitor the cardiac and other vital functions of ambulatory, but seriously ill, cardiac patients."¹

With regard to the HP/Space Labs position, ITA respectfully submits the following observations:

- ◆ Nothing in the refarming proceeding would require incumbent low power licensees to "shut down." To the extent that any incumbent low power licensee will be required to relocate, this is a function of the Commission's decision to license narrowband high power licenses on the "offset" channels and to foster the implementation of spectrally efficient technologies. The Consensus Plan is a means for the accommodation of relocating incumbents; it is not the source of their relocation. HP/Space Labs' objection to the Consensus Plan is, in fact, a Petition for Reconsideration of the fundamental decisions of the refarming proceeding.

¹ *Ex Parte* letter, submitted to Dan Phythyon by Hewlett Packard and Space Labs, filed January 12, 1998.

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- ◆ Medical telemetry systems in the 450-470 MHz band currently operate on a secondary basis with respect to adjacent high power licensees and on a co-channel shared basis with systems operating at up to 3 watts.² Accordingly, HP/Space Labs' assertion that "medical telemetry systems cannot co-exist with co-channel higher-powered frequency use" appears to be overstated.
- ◆ The environment in which medical telemetry systems would operate under the consensus plan — co-channel shared with other low power users — is essentially equivalent to the environment in which they currently operate.³ In fact, medical telemetry systems will have the added protection of being licensed on a primary basis with respect to adjacent channel high power operators — a protection they do not currently enjoy.
- ◆ The LMCC acknowledged in its Consensus Plan that the only means to satisfy all affected parties' expectations would be through an allocation of additional spectrum for low power operations.
- ◆ Since the submission of the Consensus Plan, the Commission has expanded the frequencies upon which medical telemetry devices may be authorized to include all TV channels between 7-46.⁴ No similar expansion of authority for Industrial/Business low power licensees has been contemplated by the Commission.
- ◆ The authority to designate low power channels in the 450-470 MHz band has been delegated to the Commission's certified frequency advisory committees under Section 90.267 of the Commission's rules.⁵ In the *Second Report and Order*, the Commission rejected a request by HP to codify the basic aspects of the low power proposal and deferred to the coordinators "who have knowledge of user requirements and local conditions."⁶

² See 47 C.F.R. §§ 90.20(d)(27), 90.35(c)(30). See also 47 C.F.R. §§ 90.35(61)(68)(69), (Medical telemetry systems are assigned, on a secondary basis, channels otherwise limited to air terminal use.)

³ ITA is aware that the Consensus Plan contemplates that 50 channels may eventually be licensed on a coordinated basis at 5-watt mobile and 20-watt base station operation. However, medical telemetry systems would have the option of coordinating their own systems on such channels and receiving protection from interfering co-channel operations. (ITA notes that because increased power authority is to be the subject of a further rule-making proceeding, the Commission need not address these issues prior to the recognition of the Consensus Plan.)

⁴ See *Report and Order*, (FCC 97-379), ET Docket No. 95-177, (rel. October 20, 1997).

⁵ See 47 C.F.R. § 90.267.

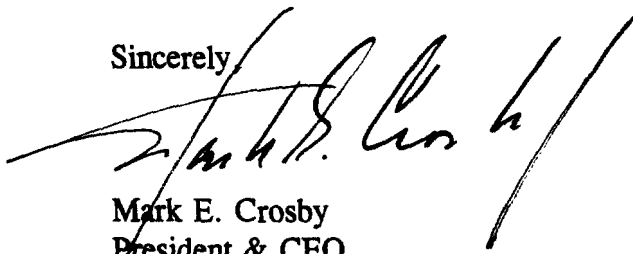
⁶ *Second Report and Order*, (FCC 97-61), PR Docket No. 92-235, 62 Fed. Reg. 18834, 18840, ¶45.

- ♦ While the establishment of the low power pool does not require further rule-making action by the Commission, the freeze on acceptance of high power licenses on the 450-470 MHz offsets cannot be lifted until the Commission announces the commencement of the seven-month migration period. This freeze has been in place since 1995; until it is lifted, the full benefits of the refarming proceeding cannot be realized.

ITA recognizes that the public interest will be served by the continued licensing of medical telemetry systems. However, because medical telemetry systems may be licensed on all of the channels currently set aside in the Consensus Plan, and because the Commission has greatly increased the number of channels available for medical telemetry system operation, the Commission should immediately recognize the LMCC's Low Power Pool Consensus Plan and announce the commencement of the seven-month migration period for incumbent low power licensees.

If you have any questions on this matter, please feel free to contact us.

Sincerely,



Mark E. Crosby
President & CEO



John Kneuer
Executive Director, Government Relations

MEC/JK:bjl

cc: Ari Fitzgerald, Esq.
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